

Underground Electric Supply's Terms and Conditions

Complete Contract – This document contains the complete and exclusive statement of the terms of the contract between us. It supersedes all previous requests, quotations or agreements. No additional or different terms will be part of the contract unless approved by a quorum of the Board of Directors of Underground Electric Supply, (UES) in writing. It is agreed that if you issue your own purchase order or subcontract for services or materials, such purchase orders or subcontracts are accepted by UES subject to these Terms and Conditions, which are hereby incorporated into any such purchase orders issued by you, unless otherwise specified on the face of this agreement. These Terms and Conditions shall prevail in the event of a conflict between the languages hereof and any language contained in your purchase orders or other documentation.

Prices and Order Acceptance – Our quotes include labor and material and are subject to prices at time of order acceptance by UES. On “hold for release” orders, prices are subject to change if you accept our quote after our written quotation expiration date or after thirty (30) days from quote date. All quotations for your use in submitting a job or project bid to your customer expire thirty (30) days from the date on the proposal, and may be withdrawn earlier by us with no penalties.

Payment – Each invoice shall be due and payable within its own terms. Any order from you represents that you are solvent. If you have been delinquent in payment or if we believe that your financial condition requires it, we reserve the right to require full or partial payment prior to job start date. If payment is not made when due, (i) your account may be subject to suspension of open account privileges, (ii) you agree to pay a late charge on the amount past due at the rate of 1½% per month (18% per year) or the maximum lawful rate, whichever is less, and (iii) we may pull our workers and stop our work, with no penalties, until your account is current. Sales of materials shall not be subject to retentions of any kind. In the event of non-payment, you agree to pay our reasonable attorney’s fees and court costs, if any, incurred to collect payment and interest charges.

Interpretation Responsibility – When plans and specifications are involved, you are responsible to verify our interpretation of them. When substitutes are offered by us on any proposal, you are responsible for their acceptability unless the proposed substitute or alternate is rejected in writing within seventy-two (72) hours.

Excusable Delays – UES shall be excused from performance when, and to the extent that, such performance is delayed or prevented due to causes beyond the reasonable control of UES. These causes may include, without limitation, acts of nature, labor disputes, government priorities, transportation delays, insolvency or other inability to perform by the manufacturer, or any other commercial impracticability. In the event of any such delay, the date of performance shall be extended for a period equal to the time lost by reason of delay.

Limited Warranty – UES warrants its labor for one (1) year from installation date. We will use our best efforts to obtain from each manufacturer, in accordance with the manufacturer’s warranty, the repair or replacement of goods that may prove defective in material or workmanship. This is your exclusive remedy. **Other than warranty of title and such express warranties as may arise from the description of the services and material set forth on the face of this contract, UES expressly disclaims any and all warranties, including but not limited to the warranties of merchantability and fitness for intended purpose, and you agree to take the goods "As Is" and "With All Faults".**

Limitations of Remedies and Damages – The total liability of UES and its suppliers to you, your customers or to any other person, relating to this contract, its performance or non-performance, or from the use of the product furnished, is limited to the price of the goods giving rise to the claim. All such liability shall terminate at the end of the manufacturer’s warranty period. Under no circumstance will liability exceed available insurance funds. UES and its supplier will not, in any event, be liable for any special, incidental, consequential, punitive or penal damages including, but not limited to, back charges; labor costs; costs of removal, replacement, testing or installation; loss of efficiency; loss of profits or revenues; loss of use of the products or any associated products; damage to associated products; lateness or delays in delivery; unavailability of products; cost of capital; cost of substitute products, facilities or services; downtime; or claims from your customers or other parties to you or directly to us for such damages.

Cancellation – You may cancel your order, provided that you give written notice to us and pay us cancellation charges, if any. Cancellation charges may include UES’s expected costs and profits.

Assignment – Any assignment of the contract will be void without the prior written consent of all parties, which will not be unreasonably withheld.

Disputes and Interpretation – This contract will be interpreted in accordance with California law. Venue for any dispute resolution process, including but not limited to an action at law, shall be exclusively in San Bernardino County, California. If any term, condition or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding. UES’s waiver of any term, condition or covenant, or of your breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or of the breach of any other term, condition or covenant.

Work Authorization – Your representatives are presumed to have authority to approve regular or extra work. If you wish to designate only certain individuals that have authority to approve regular or extra work, UES must be notified of their identity in writing by certified mail not later than 72 hours prior to the start of the job.

Schedule – UES bids all projects with a specific schedule. Any change in that schedule without UES’s prior written agreement may result in extra charges and or UES stopping work until a new schedule is agreed upon. If no new schedule is agreed upon UES may pull of the job, in which case you shall be responsible for work completed and all associated current and expected costs and profits associated with that job.

Invoicing – UES will provide progress and final invoice as job progresses. We will invoice for job preparation, mobilization, materials and labor on a percent completion basis. It is your responsibility to make sure UES’s invoices are approved and reaches the proper A/P department individual to expedite payment within seventy-two (72) hours of UES invoice submission. Any discrepancies must be identified to UES in writing within seventy-two (72) hours of receipt of invoice. All invoices are net upon receipt. Late charges of 1½% per month will commence thirty (30) days from date of invoice.

Differing Site Conditions – UES assumes that your adjoining equipment not specifically in our scope is in good operating condition. UES bids projects with a specific scope of work and procedure. Should that scope of work and procedure change because your adjoining equipment is not good or the work conditions are not as we interpret them, UES reserves the right to be paid an extra. Work will stop until a new scope, schedule and price is agreed upon with no penalties to UES. If you and UES cannot come to an agreement UES will be entitled to be paid for all work completed and all associated current and expected costs and profits associated with that job. Warranty is void on work not completed by UES.

Liquidated Damages - UES will not be responsible or liable for any liquidated damages due to work stoppage or any circumstances.

Your Responsibilities include, but are not limited to:

- You shall provide at least one (1) person familiar with the site and work to be performed to be present and act as your representative at all times that our workers are working on your premises.
- You shall provide ready access (within fifteen (15) minutes) to all equipment that is within UES’s scope of work to allow for continuous progression of work. Any delays or travel time (portal to portal) for additional site visits required to complete our scope of work will be billed at the applicable rate schedule.
- You shall provide all instruction books, device settings, and drawings schematics and current or previous test reports applicable to the equipment that work is to be performed on.
- You shall arrange for utility outages, test equipment rigging, test site lighting and test power at the point of need unless otherwise provide within the proposal.
- You shall provide any requirements and details for any training for safety or security including site badges prior to the proposal acceptance by you. If full disclosure is not supplied all time incurred to comply with these measures to meet your requirements will be billed to you as an extra. Time including travel time (portal to portal) per the applicable rate schedule will be invoiced per UES rate schedule.
- An overtime differential will be accessed to you for overtime hours worked which were quoted in the proposal to be worked on straight time.
- You shall defend, indemnify and hold UES and our subcontractors harmless for any cost associated with loss of production or liquidated damages for schedule delays beyond our control.
- UES will not be responsible for any costs associated with “Witness Testing” for initial or retests.
- UES tests in accordance with NETA and performs “Acceptance Testing” per the latest “NETA Acceptance Testing standards”. Startup, Commissioning and/or Turn Key testing or similar phrases used in your documentation will need to be fully described in your required specifications prior to accepting of a UES proposal. No clear definition exists for these alternate phrases in the NTEA specification or the IEEE dictionary.
- You are responsible to insure that (i) all conduits are free and clear, (ii) all ground and bonding points meet National Electric code requirements of 25 OHMS or less, (iii) all cable and equipment supports are in place and in good condition, (iv) all required equipment safety clearances are within tolerance, including but not limited to equipment panels, cable bending, radius, etc., (v) all equipment is free of flooding and water damage, and (vi) proper accessibility for cable pulling equipment, lifting equipment and manpower is available.
- You are responsible for all traffic control, unless specifically stated in our proposal.
- You are responsible for provide access to the job site 24 hours a day.

Working Hours – Normal working hours are eight (8) hours per day. Time starts at your site and ends when our men return to our shop. Unless otherwise agreed by UES and you in writing. Normal working hours are between 7:30am and 4:00pm. All other time will be charged per our rate sheet.

Rates – All rates are per UES rate sheet.